

# MEDICAL REVIEW OF TEXAS

[IRO #5259]

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## NOTICE OF INDEPENDENT REVIEW DETERMINATION

TDI-WC Case Number:	
MDR Tracking Number:	M2-06-0977-01
Name of Patient:	_____
Name of URA/Payer:	American Home Assurance
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Richard Francis, MD

April 28, 2006

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on the Division of Workers' Compensation Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

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Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: \_\_\_\_\_  
Richard Francis, MD  
Division of Workers' Compensation

CLINICAL HISTORY

RECORDS REVIEWED:

1. Notification for IRO assignment.
2. A packet of notes from Downs-Stanford, P.C. which includes an overview letter by W. Jon Grove, an attorney at law, as well as office notes from Dr. Hafiza Docrat who is recommending further conservative management, ultimately an orthopedic spine consult.
3. X-rays dated 4/27/05 showing mild to moderate changes at L5 through L3.
4. An MRI from Integrated Diagnostics Center dated 5/12/05 which shows disc degenerative changes at several levels, small herniations at both L5 and L3.
5. Spine Associates of Houston, an EMG study which showed a chronic right L5 radiculitis.
6. Houston Pain Consultant, Dr. Arun Lall, dated 5/27/05 through ongoing.

This gentleman was injured on \_\_\_\_\_. He was kneeling on a trailer, working on a phone line. He moved his back and developed substantial low back pain. He has been having back pain since and apparently has not been able to work since that point. I don't see any specific designation with regard to his current work status with the exception that he was described as not being able to work, in a letter that he himself wrote to dispute a previous denial.

The patient was treated in a conservative fashion initially with a brace, physical therapy and epidural injections and he had no substantial

improvements. He has had plain x-rays which showed mild to moderate degenerative changes from L5 through L3 with L5 being the most substantially abnormal. He then had an MRI scan on 5/12/05 which showed disc degeneration at several levels with small herniations at L5 and L3. He had an EMG which found him to have a chronic L5 radiculopathy on the right side. He has more recently had a discogram which showed concordant pain at L5 along with an annular tear and based upon these results, Dr. Richard Francis with Spine Associates of Houston has recommended an artificial disc replacement at L5.

#### REQUESTED SERVICE(S)

Artificial disc replacement at L5, LSO Flex Corset, Cryo Unit x10 day rental.

#### DECISION

Approved.

#### RATIONALE/BASIS FOR DECISION

There are specific requirements for the placement of the artificial disc as well as contra-indications. This patient has been diagnosed as having degenerative disc disease, he is between the appropriate ages of 18 and 60, and he is having low back pain as his major complaint with only mild radiation of symptoms into his legs. He has had greater than six months of conservative management including therapy, injections and bracing. As far as pain medications, he is taking anti-inflammatory agents and has not taken high dose narcotics. He has none of the contra-indications for this including infection, spinal stenosis, spondylolisthesis, significant posterior facet disease, significant radiculopathy and osteoporosis around his previous spine fusion. I think that where the previous reviewer had difficulties was that this gentleman is noted to have disc disease at more than one level. His MRI scan shows degenerative changes at both L5 and L3, however, the indications for an artificial disc replacement still allows for changes at other levels within the spine. This was not even a contra-indication for the FDA protocol prior to general release.

Looking further into the chart; this gentleman is apparently fairly well conditioned and is motivated to return to work, therefore, this patient should be approved for artificial disc replacement. The justification for this statement comes from the ***FDA Guidelines for Artificial Disc Replacement*** as well as the ***North American Spine Society's*** physician paper on artificial disc replacement.

### Certification of Independence of Reviewer

As the reviewer of this independent review case, I do hereby certify that I have no known conflicts of interest between the provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

### YOUR RIGHT TO APPEAL

If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.

If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.

Chief Clerk of Proceedings  
Division of Workers' Compensation  
P.O. Box 17787  
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 28<sup>th</sup> day of April 2006.

Signature of IRO Employee: \_\_\_\_\_  
Printed Name of IRO Employee: Cindy Mitchell